

AUG 19 2008

U.S. DISTRICT COURT  
WESTERN DISTRICT OF NCUNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA	)	DOCKET NO. 3:08-cr-173-R
	)	
	)	<u>BILL OF INFORMATION</u>
v.	)	
	)	Violations:
	)	26 U.S.C. § 7206(1)
JAMES SMITH	)	
_____	)	

## THE UNITED STATES ATTORNEY CHARGES:

At the specified times and at all relevant times:

Introduction

1. Red Clay Aggregate, Inc. (hereafter, "Red Clay") is a corporation organized under the laws of the State of North Carolina and is in the business of providing construction services.

2. Defendant JAMES SMITH is the owner and operator of Red Clay. Red Clay provides its service to several clients in the Charlotte, North Carolina area, within the Western District of North Carolina and elsewhere.

3. As owner and operator of Red Clay, Defendant JAMES SMITH exercised supervisory control over all financial aspects of the company, including maintaining the books, records and accounting of the company. In this regard, Defendant JAMES SMITH provided guidance regarding the classification of business expenses for the preparation and filing of Red Clay's tax returns.

4. Beginning in or about 2002 and continuing through October 2007, Defendant JAMES SMITH utilized the services of an entity known both as Soft Touch Promotions, Inc. and SW Associates, which was located in Charlotte, North Carolina.

5. Defendant JAMES SMITH falsely characterized his transactions with Soft Touch and SW Associates as, among other things, advertising expenses, on Red Clay's corporate tax returns. In truth and fact, the expenses were personal in nature and the false treatment on the corporate tax return caused the understatement of income to Defendant JAMES SMITH.

COUNT ONE

6. The Government realleges and incorporates by reference herein all of the allegations contained in paragraphs 1 through 5 of the Information, and further alleges that:

7. In or about October, 2007 in Mecklenburg County, within the Western District of North Carolina, and elsewhere, the defendant,

JAMES SMITH

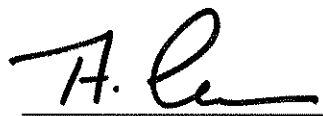
did willfully make and subscribe a return, statement, and document, to wit a United States individual income tax return for the calendar year 2006, which contained and was verified by a written declaration that it was made under penalty of perjury and which the defendant did not believe to be true and correct as to every material matter in that:

The tax return reported on line 17 income of approximately \$455,935, whereas, as the defendant then and there well knew and believed, he received total income substantially in excess of that amount during the calendar year 2006.

All in violation of Title 26, United States Code, Section 7206(1).

GRETCHEN C.F. SHAPPERT  
UNITED STATES ATTORNEY

  
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MARK T. ODULIO  
ASSISTANT UNITED STATES ATTORNEY

  
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THOMAS T. CULLEN  
ASSISTANT UNITED STATES ATTORNEY